IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 36374 of 2007(E)

PETITIONER:

MR.T.N.SHAJI
AGED 38 YEARS, S/O. T.K.NARAYANAN,
THEKKUMKATTIL HOUSE, MEVALLOOR PO,
VAIKOM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS:
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1. **THE DISTIRCT COLLECTOR,**
   COLLECTORATE,KOTTAYAM.

2. **THE DEPUTY TAHSILDAR,(R.R.)**
   VAIKOM TALUK OFFICE
   VAIKOM, KOTTAYAM DISTRICT.

3. **THE GEOLOGIST**
   MINING AND GEOLOGY DISTRICT OFFICE,CIVIL STATION
   COLLECTORATE PO, KOTTAYAM DISTRICT.

4. **THE VILLAGE OFFICER**
   VELLOOR VILLAGE OFFICE
   VAIKOM TALUK, KOTTAYAM DISTRICT.

BY GOVERNMENT PLEADER SRI.MATHEW GEORGE VADAKHEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)NO. 36374 OF 2007

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Dated this the 10th day of December 2007

JUDGMENT

The petitioner was a quarrying permit holder who was given permission to mine and extract 500 MT of ordinary sand from an area of 10.5 Ares pursuant to Ext.P1. Apparently after quarrying, the land should be filled back in terms of Clause 16 of Ext.P1. On the premise that the petitioner has not filled up the land, Ext.P3 was issued by the third respondent Geologist requiring the petitioner to fill up the land within a time frame or if not, to deposit an amount of Rs.11,37,780/-. On accepting Ext.P3, the petitioner submitted Ext.P4 requiring time to comply with the directions in Ext.P3 till 30.4.2007. Petitioner claims that he had filled up the pit which was dug in the course of quarrying sand from the land in question covered by Ext.P1. This was intimated to the third respondent under Ext.P5 requiring him to inspect the land and verify the said factual situation. Petitioner contends that nothing further was heard

after Ext.P5. There was no site inspection or verification. But in November 2007, Ext.P6 revenue recovery notice was issued to the petitioner which has been challenged in this writ petition.

2. In my view, since Ext.P3 has been accepted by the petitioner and he has proceeded to fill up the pits which were dug up in the property, covered by Ext.P1, then the third respondent is required to inspect the land and verify whether the claim made by the petitioner of having filled up the pit in the land covered by Ext.P1 is correct or not. If the factual claim is not correct, then necessary orders will have to be issued by the third respondent repudiating the claim made by the petitioner. But the initiation of revenue recovery proceedings without a factual verification of this aspect does not seem to be correct.

2. I have heard the learned Government Pleader also.

3. In the circumstances, the writ petition is disposed of directing the third respondent to inspect the property covered by Ext.P1, after serving notice to the petitioner and verify the correctness of the statement made by the

petitioner in Ext.P5. Thereafter he will proceed to issue separate proceedings depending upon his satisfaction as to whether the pits which were dug up in the property as covered by Ext.P1 have been filled up or not. Depending upon the factual verification and proceedings to be issued in that regard, further steps could be taken to recover any loss that might have been caused. The petitioner shall be entitled to take appropriate steps in relation to any such proceedings, that may be passed by the third respondent after verification of the facts in the manner aforementioned. The entire process shall be completed within a period of three months from the date of receipt of a copy of this judgment. Enforcement of Ext.P6 shall be subject to the decision to be taken by the third respondent, in the manner aforementioned.

V.GIRI, JUDGE

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